

Board of Public Works
October 27, 2010

A regular meeting of the Board of Public Works of the Consolidated City of Indianapolis, Marion County, Indiana, was held the 27th day of October 2010, in the Public Assembly Room of the City County Building. Chair David Sherman called the meeting to order at 1:00 p.m.

Board members in attendance were: David Sherman Robert Parrin Dennis Rosebrough
Cassie Stockamp Kenneth Hughes

Absent: Tony Samuel
Dorothy Henry

Staff in attendance were:

Mike Huber Maryam Williams Nicole Kelsey
Mike Smith Shawn Brock Bob Masbaum
Larry Jones Steve Nielsen Monica Ferguson
Sue Michael

ITEM # 1 – APPROVAL OF MINUTES

Upon a motion by Mr. Hughes, seconded by Mr. Rosebrough, the Board voted 4-0 to approve and accept Board Minutes from August 11, 2010.

Ms. Stockamp arrived at 1:08.

ITEM # 2 – PUBLIC HEARING RESOLUTION

The public hearing was opened.

Resolution No. 60, 2010; Concession Agreement with ACS, Affiliated Computer Services, Inc., (ACS), A Xerox Company, to Operate, Maintain and Improve the Metered Parking System

Staff recommended that the Board of Public Works approve and adopt Resolution No. 60, 2010, which authorizes the city to execute a concession agreement, an agreement with ACS, Affiliated Computer Services, Inc. ACS, a Xerox Company, (or its designee, as approved by the City) to operate, maintain, and improve the existing metered parking system and infrastructure in the City of Indianapolis.

Michael Huber, Director of Enterprise Development thanked the Director and the Board for allowing him to give a brief presentation about revisions to the parking proposal. He replied it was hard to believe it had been nearly two months since the original proposal was announced. And that on August 20th 2010, Mayor Ballard introduced the parking proposal and the selection of the team as the winner of this procurement. He stated by incorporating early termination provisions and significantly increasing the amount of money available to invest in the downtown and Broad Ripple infrastructure, this new partnership provides for greater flexibility for future community development, along with new, easy to use parking meters.

Mr. Huber mentioned following Mayor Ballard's announcement, the City-County Council and the general public expressed that they liked a lot of the elements with the proposal; however, there were still policy concerns, and asked if staff would come back with answers and consider changes. He stated that the new

proposal involved increased revenue to the city over time; that under the original proposal, the city would receive 20% of the revenue under \$8.4 million, and that for every dollar above \$8.4 million in annual revenue the city would receive .55 cents on every dollar. Yet, with the new proposal, the threshold would be reduced to \$7 million, so for every dollar under \$7 million generated by the metered parking system, the city would receive 40% and the ACS Denison Global team would receive 60% above \$7 million, so the percentage to the city is still favorable; yet, the threshold that defines the tiers has moved from \$8.4 to \$7 million, which provides the city with less money up front; but with much more money in year over year revenue.

He added another change the public advised staff to make was the existence of termination for convenience of the contract. He stated that the public expressed that the city can terminate the contract for default, but believed the city should have more latitude to terminate the contract if it is determined that for convenience reasons or any other reasons it wants to go a different way with the meters parking system; therefore, staff has proposed a termination for convenience provision every ten years, which the city can buy itself out of the contract with a payment under \$20 million, and that the termination amounts significantly decreases every 10 years thereafter. Though staff relieves that \$20 million is a lot of money, it will be less money that the city would receive in year one.

Mr. Huber also stated that the public wanted to see more parking flexibility and different operational hours. So, staff went back to the ACS Global team and inquired whether staff could negotiate the ability to remove up to 200 meters without impacting revenue. He replied that the negotiation was successful; that meters could be relocated within the four zones where meters are located, and that it would provide flexibility for economic development purpose or create new fire lanes. In addition, the proposed meter hours of operation in the Broad Ripple and Mass Avenue evening hours had changed, that the original proposal hours was Monday through Saturday from 7 a.m. to 11 p.m., now it is Monday through Saturday 7 a.m. to 9 p.m.

Further, Mr. Huber stated that the city has control over all meter advertising and naming right proposal; and that revenue is shared only when the ParkIndy Team wins the proposal. He replied that all existing residential parking permit programs will be grandfathered, and revenue will be shared. And if a garage is built in the Broad Ripple area, the city retains the option to implement and operate a residential parking program.

Mr. Huber stated that the ParkIndy Team is made up with several different vendors; ASC has been the prime vendor; Denison Global Parking a joint venture of two companies with a long history in Indianapolis and is minority owned; Evens Time is a technology provider, a woman owned business; and Sease Gerig & Associates who works on communication. He explained that the ParkIndy Team and staff believes this is the way to invest significantly enhancing the customer experience by providing the ability to use credit and debit cards; enhance on street technology, and give the city the ability to manage and measure how many cars are parking on which streets at which times, which can be very useful information for economic development purposes. In addition, it provides many benefits to stakeholders and other benefits to Indianapolis and its residents, which includes the 200 jobs that ACS has agreed to provide to the city. He replied it provides staff the ability to better measure the parking system with more transparencies, and shift a lot of the operating and capital cost and a lot of unknown to the vendor while creating an enhanced revenue stream to the city year after year. Mr. Huber further stated that these changes would not have happened without staff having many public meetings with councils, stakeholders, groups and businesses, because they came forward and asked if staff could make the changes, and the changes were made, yet, staff took a good parking proposal and turned it into a great deal.

Mr. Parrin mentioned that he was certain that staff has had many professional number crunchers, and assumed this was the best deal that could be negotiated with any third party across the board. Mr. Huber replied that

staff was confident that it was, which was the competitive process that staff went through, that took six months to complete. He stated when the public came back and asked if changes could be made, staff went back to the ACS and the Denison Global Team, where they had to do their own number crunching. He replied that Morgan Stanley advised staff to make certain that ACS was representing that the changes that they were making were not leaving any value on the table for taxes payers. He stated that the estimated net present value of the total cash flow based on the projections coming to the city had actually increased from \$67 to \$73 million according to the analyst of Morgan Stanley and the Bond Bank, so by that measure, staff believed financially a better deal was negotiated for the city. Mr. Parrin mentioned while looking back at the cumulative cash flow chart; what occurred to him was the difference between the current team proposals, and questioned if ACS is able to do the job much more efficiently than the city. Mr. Huber replied that staff believed so, that mostly it was a question of risks and the unknowns to the city in terms of its capital cost and its ability to refresh the system every ten years when meters brake down, and also the ability to grow the system consistent with demand. He added that ACS has projected that the system will grow faster than city government, and with ACS being in many major cities larger than Indianapolis, and actually has the experience seeing the system grow out. He stated that staff has estimated that ACS profit margins will be somewhat between the 10% and 15% range, however, staff believes there will be a value to the city by shifting the risk to ACS, and by not having to deal with the unknowns.

Mr. Rosebrough asked whether the green line on the cumulative chart factored in the operating cost. Mr. Huber replied yes, that staff presented those high level operating assumptions with the estimated cost of the ongoing maintenance expenses; yet, if staff implemented this new electron system, staff would conservatively estimate that those would cost \$2 million a year, and that revenue would increase, but staff would need a lot more employees to run the system. Mr. Rosebrough asked whether there was a provision for garage parking. Mr. Huber stated that the garage and lots parking recommendations has remained the same, which there will be ten year management contracts; the contracts would not exceed ten years. The main reason, Mr. Huber stated is that past administrations have used parking to subsidize economic development deals to provide free or reduced parking. He stated that staff took a hard look at that and realized that there were many contracts like that in the downtown area, and staff wanted to retain that right to use garage and parking lot parking. He explained that it is fairly unprecedented that the city would use a lot of the parking meters to subsidize economic development, so staff felt it was appropriate to separate out metered improvements in the garage and lot contracts.

Ms. Stockamp stated that she assumed that this is based on projections and not guarantees; and asked what the process would be for adding residential programs as well as new meters. Mr. Huber stated that under the ordinance that staff proposed, the City County Council would have the final authority to award a residential permit program, and the council would still have final authority to move or remove or add new parking meters; yet, both scenarios would come to this Board first before going to the council.

Mr. Parrin asked whether or not this agreement would effectively cancel and replace all the other contracts that the city has to manage its metered system or its parking lot garages; and if there is any exposure that the city might obtain by doing this legally with any of the current lease or contract holders. Mr. Huber stated that he did not believe so, that staff went through that review early on before the RFQ was released, so for the meters, the garages and lots that were a part of this proposal, it would not create any additional exposure to the city.

Mr. Hughes thanked Mr. Huber for a very comprehensive and informative presentation and all the work that he and the members of his staff had done. He stated that he came in with a lot of questions; however, they were all answered, all besides one. Mr. Hughes asked if the process for blocking out parking meters will

remain the same, and if it would continue to come through this Board. Mr. Huber replied yes, that his hope is that staff would continue to bring those items to this Board. He stated if we do our jobs correctly, after a year of having electronic metered parking, staff would have a better base line of data than we have today, and that staff would know more about utilization of particular spaces. One of the attractive things about this proposal is, if this Board request data at anytime, or if a proposal from a community comes forward and proposes to block off certain streets; staff would have the ability to get that data from staff, which would have real time data from parking meters, and that data would be public record.

Director Sherman asked if this proposal would shorten the length of time for bagged meters. Mr. Huber replied that staff put the responsibility for bagging meters into the contract. He stated that these are electronic meters that will have the ability to be shut down dynamically, although staff knows that some kind of signage will be necessary, especially if they are multi-meters, so that people will not have to pull up to meters and see that they are shut down. He mentioned that staff spoke with DPW and IMPD employees, because the bagging policy is very much inefficient today; yet, staff believed that it was best to shift the responsibility over to the contractor, and that both the ParkIndy Team and the city's objective will be aligned because for every hour that the meters stay bagged, it will be lost revenue to the vendor and the city. So, there would be every incentive to shut the meters down and put up a sign right before the special event happens and then to remove the sign right after the special event happens. Ms. Stockamp asked if there was a limit on the numbers of bagging. Mr. Huber stated that staff took the numbers of special events, which represented about 3% on the Monday through Saturday, then doubled it so that the city's available allocation on any day of any particular parking meter is 6%. He stated that staff knows that there is money left on the table by increasing it from 3% to 6%; but so far it has given the members of the council and the public some assurance that there will not be a huge cost and there will be an ability to block out meters for parades and future special events.

Ms. Stockamp asked if all of these different facets were in stone during the next 50-years, and inquired whether staff would be able to revisit it once there is data after a couple of years. Mr. Huber stated if there was a proposed change to this contract, staff would have to come back to this Board and to the council. He stated that staff feels that there is a lot of wiggle room on this policy like special events, and the increase from 3% to 6% of days. He replied if some of the basic policies were to change, it would trigger a re-negotiation of the contract, which would have to come back to this Board, and be approved by the council. Rates structure would not have to be approved by the council. Mr. Parrin asked how would the merchants in Broad Ripple be affected by this agreement if they decided to build a parking garage. Mr. Huber stated that the merchants affected in Broad Ripple has almost unanimously demanded a parking garage, so the Mayor's commitment to them as a part of this transaction would be to help them finance it, preferably through a public private partnership and partnership with the developer. He replied what staff is committed to do is to create a residential permit program, so that it would drive people out of their neighborhoods into that garage. He further stated if there was another public garage built somewhere, or if there was one built in the downtown area that was adjacent to the metered parking system, and if it was financed entirely by the city there are some restrictions about the rates that the city can charge.

Representative Michael Milliken from Ice Miller stated that if a garage is built by the city there are certain thresholds of rates that can be charged, so in other words, the city cannot build a garage and charge free parking to drive parking off the streets into the garages, and that the rates have to be aligned and adjusted for inflation. Mr. Parrin asked if any new parking facilities within the city would fall under this management contract. Mr. Milliken replied only if the city builds the garage, besides there is nothing in this agreement that controls what a private party can do.

Ms. Stockamp asked how often will staff come back to report how this project is going. Mr. Milliken replied the contract allows for periodic reporting. Mr. Hughes asked if the locations of the new meters would be fed into the imaging system. Mr. Milliken replied yes, that decision has not changed. Mr. Hughes asked if Disabled Veterans would still be able to use meters without payment. Mr. Milliken replied yes.

Mr. Parrin added while looking at the termination for convenience dates, after a 10-year period there would be a \$20 million penalty that the city would have to pay the supplier; then asked if all the infrastructure that was invested by the supplier would become the property of the city. Mr. Huber replied yes, that the metered system would become the property of the city. Upon a motion by Mr. Rosebrough, seconded by Ms. Stockamp, the Board voted 5-0 to approve and adopt Board Resolution No. 60, 2010.

The public hearing was closed.

ITEM # 3 – RESOLUTIONS

- a. Resolution No. 58, 2010; Encroachment Petition on the Right-of-Way for the Harting Regulated Drain

Staff recommended that the Board of Public Works approve and adopt Resolution No. 58, 2010, granting an encroachment into the right-of-way. The petitioner has requested encroachments on the right-of-way for the Harting Regulated Legal Drain. The request is in order to modify the existing pond in to a larger pond for the development of Churchman Manor, Sec 1. The modified pond will have an outlet structure consisting of 40 L.F of 15” RCP pipe. Upon a motion by Mr. Hughes, seconded by Mr. Rosebrough, the Board voted 5-0 to approve and adopt Board Resolution No. 58, 2010.

- b. Resolution No. 55, 2010; Parking Meter Waiver Fees for the 2010 National FFA Convention

Staff recommended that the Board of Public Works approve and adopt Resolution No. 55, 2010, for the waiver of parking meter fees for the 2010 National FFA Convention event. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve and adopt Board Resolution No. 55, 2010.

- c. Resolution No. 56, 2010; Parking Meter Waiver Fees for the Celebrity Bell Ringing

Staff recommended that the Board of Public Works approve and adopt Resolution No. 56, 2010, for the waiver of parking meter fees for the Celebrity Bell Ringing event. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve and adopt Board Resolution No. 56, 2010.

- d. Resolution No. 57, 2010; Parking Meter Waiver Fees for the Salvation Army Radiothon

Staff recommended that the Board of Public Works approve and adopt Resolution No. 57, 2010, for the waiver of parking meter fees for the Salvation Army, Radiothon event. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve and adopt Board Resolution No. 57, 2010.

ITEM # 4 – BID AWARDS

- a. Composting of Leaves
\$450,000.00 – Southside Landfill, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute a Service Agreement for the Composting of Leaves (ITB. No. 7786) with Southside Landfill, Inc., at the rate of twenty-one dollars per ton, for a not to exceed amount of four hundred fifty thousand dollars and for a three year

term. This agreement is for the composting of leaves during leaf season between November 8 to December 3, 2010. The Indianapolis residents will be allowed to set out bags of leaves on their regular trash day for separate collection by the city and its contracted solid waste haulers. Director Sherman asked if Mr. Brock would confirm how many bags each household is allowed to set out on the curb. Mr. Brock stated forty bags each week. Ms. Stockamp asked what material exceptions did Greencyle omit. Mr. Brock replied that Greencyle would not take plastic bags. Mr. Hughes asked about the previous rate. Mr. Brock replied it was \$18.00 a ton, which had been \$18.00 since 2001. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve the Composting of Leaves Agreement.

Director Sherman stated that he personally heard from some general managers of a few hotels about the wonderful job that Mr. Mike Smith completed on the resurfacing projects, and that he wanted to thank him and give him credit for his efforts.

- b. RS-10-062; Resurfacing with Related Items in Pike, Washington, Lawrence, and Wayne Townships
\$2,640,000.00 – Calumet Civil Contractors, Inc.

Staff recommended that the Board of Public Works award Project No. RS-10-062, Resurfacing with Related Items in Pike, Washington, Lawrence, and Wayne Townships to Calumet Civil Contractors, Inc., in the not to exceed amount of \$2,640,000.00 on the basis that it is the lowest responsive and responsible bidder. The engineer's estimate for construction of this project is \$2,560,299.19 and the percentage between the low bid and the engineer's estimate is 3.11%. This project consists of milling/resurfacing spot replacement of sidewalk and curb, ADA ramp replacement and other related items in Pike, Washington, Lawrence and Wayne Townships. Upon a motion by Mr. Parrin, seconded by Mr. Hughes, the Board voted 5-0 to approve the Resurfacing with Related Items in Pike, Washington, Lawrence and Wayne Townships Project.

- c. RS-10-064; Resurfacing and Related Items in Center and Perry Townships
\$3,350,000.00 – Calumet Civil Contractors, Inc.

Staff recommended that the Board of Public Works award Project No. RS-10-064, Resurfacing and Related Items in Center and Perry Townships to Calumet Civil Contractors, Inc., in the not to exceed amount of \$3,350,000.00 on the basis that it is the lowest responsive and responsible bidder. The engineer's estimate for construction of this project is \$3,633,266.90 and the percentage between the low bid and the engineer's estimate is 7.80%. This project consists of milling/resurfacing spot replacement of sidewalk and curb, ADA ramp replacement and other related items of work on various streets in Center and Perry Townships. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve the Resurfacing and Related Items in Center and Perry Townships Project.

- d. RS-10-065; Resurfacing with Related Items in Lawrence and Warren Townships
\$3,092,000.00 – Calumet Civil Contractors, Inc. .

Staff recommended that the Board of Public Works award Project No. RS-10-065, Resurfacing with Related Items in Lawrence and Warren Townships to Calumet Civil Contractors, Inc., in the not to exceed amount of \$3,092,000.00 on the basis that it is the lowest responsive and responsible bidder. The engineer's estimate for construction of this project is \$2,986,687.45 and the percentage between the low bid and the engineer's estimate is 3.53%. This project consists of milling/resurfacing, spot replacement of curb and sidewalk, ADA ramp replacement, and other related items of work on various streets in Lawrence and Warren Townships. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 5-0 to approve the Resurfacing with Related Items in Lawrence and Warren Townships Project.

- e. BE-10-010B; Wet Weather Disinfection Improvements
\$135,000.00 – Reynolds, Inc.

Staff recommended that the Board of Public Works award Project No. BE-10-010B, Wet Weather Disinfection Improvements to Reynolds, Inc., in the base bid lump sum amount of \$135,000.00 on the basis that it is the lowest responsive and responsible bid. The engineer's estimate for construction for this project is \$150,000.00 and the percentage difference between the low bid and the engineer's estimate was 10.0%. This project consists of constructing miscellaneous wet weather disinfection improvements at the Belmont Advanced Waste Water Treatment Facility to include a new secondary effluent conduit between the effluent diversion structure and the existing ozone influent channel, and other related items of work.

Mr. Sirmin, Office of Corporation Council stated as Mr. Nielsen indicated there was an issue with the Bid Part 6, which is reflected in your packets addressed from Mr. Ransom. He stated that when staff looked at the bid, Bid 6, which is in the handout, showed the old format had been used. He replied as you all are aware bidders are to insert the amount of proposed usage of MBE/WBE and VBEs. In addition, check the appropriate box whether they met the goals or in fact have not met the goals and have made a good faith effort. He stated in this particular bid there were no percentages entered by Reynolds; however, they had checked the box stating that a good faith effort was made. Yet, within a three day period, Reynolds submitted their post submittals; and Mr. Ransom's office determined, based on evidence that was submitted, that a good faith effort had been made at the time of bid. He mentioned that at looking at the form, staff realized that a few months back or even a year ago; staff made a listing of various subcontractors and MBE/WBEs a post bid submittal, which use to be submitted at the same time. He stated that when staff changed that, staff failed to note it, in fact if you look at the old form it says that the total percentages on the bid price is stated in part A, of which there is no part A to this document, which has caused some confusion. He also stated that the bidder must select one of the boxes, one or two below for the bid to be responsive, with is true but it does not address the filling in of the percentages as a requirement. So, for that reason, staff felt it was proper to allow a post bid analysis based on the fact that it was submitted within three days; and based on the fact that the evidence that was submitted clearly indicated that the quotes were obtained prior to the bid date; and based on that DEO was willing to recommend Reynolds as being responsive. In addition, staff has made subsequent changes to the Bid 6, which should address it all, and going forward with the use of the new form, staff will be more strict about filling out these forms at the time of bid.

Mr. Sirmin also addressed the addendum portion, stating staff has recommended in the past rejection of bids due to failure to respond to an addendum. He stated in this particular case, staff was able to discuss this with the design engineer on the project, who certified that they had sent copies of the addendum and had evidence of delivery of these addendums to the contractor. In addition, he stated that the contractor admitted that they had the addendum after the bid, but staff had proof from the design engineer that he had delivered the addendum document. Mr. Hughes asked if there was anybody available that could assist with putting together a packet for a bid. Mr. Nielsen stated that generally the project manager, reviews the bids. He further replied that there is a pre-bid conference, which suggests all contractors read their documents closely, particularly the instructions to bidders and all the bid submittals that are required during the bid and post bids. Staff goes through each line and verse and points out critical things the bidder needs to know.

Mr. Rosebrough asked whether or not the bid process is managed by the Department of Administration. Mr. Nielsen replied yes, but all they do is put out the bids and manage financial forms. He stated that staff does the more in-depth reviews along with Bob Ransom's group on the WBE/MBE and the VBEs submittals. Upon a motion by Mr. Parrin, seconded by Mr. Hughes, the Board voted 5-0 to approve the Wet Weather Disinfection Improvements Project.

- f. BL-41-003D & SD-41-007D; Five Points Road/Southeastern Avenue Septic Tank Elimination Program and Drainage Improvements
\$5,659,300.20 – Dunigan Bros, Inc.

Staff recommended that the Board of Public Works award Project No. BL-41-003D & SD-41-007D, Five Points Road/Southeastern Avenue Septic Tank Elimination Program and Drainage Improvements to Dunigan Bros., Inc, in the not to exceed amount of \$5,659,300.20 on the basis that it is the lowest responsive and responsible bidder. The engineer's estimate for construction of this project is \$6,312,671.50 and the percentage between the low bid and the engineer's estimated is 10.4%. This project consists of the construction of sanitary sewer, sanitary lift station, drainage improvements including installation of storm sewer pipe, structures and hybrid ditches, and resurfacing or reconstruction of local streets. Upon a motion by Mr. Hughes, seconded by Ms. Stockamp, the Board voted 5-0 to approve the Five Points Road/Southeastern Avenue Septic Tank Elimination Program and Drainage Improvements Project.

- g. BL-10-069E; Sunset/Kessler Septic Tank Elimination Program
\$927,590.00 – Veolia Water Indianapolis, LLC

Staff recommended that the Board of Public Works award Project No. BL-10-069E Sunset/Kessler Septic Tank Elimination Program to Veolia Water Indianapolis, LLC, in the not to exceed amount of \$927,590.00 on the basis that it is the lowest responsive and responsible bidder. The engineer's estimate for construction of this project is \$1,336,256.00 and the percentage between the low bid and the engineer's estimate is 31%. This project consists of the installation of approximately 13,000 feet of low pressure sanitary sewer including associated grading, seeding and road restoration. Upon a motion by Mr. Hughes, seconded by Mr. Parrin, the Board voted 5-0 to approve the Sunset/Kessler Septic Tank Elimination Program Project.

ITEM # 5 - CHANGE ORDERS

- a. BE-51-002A, C/O No. 2; Ozone System Equipment Procurement (Div A) Southport and Belmont Advanced Wastewater Treatment Facilities
\$15,400.00 – Ozonia North America, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 2 for Ozonia North America, Inc., in the increased amount of \$15,400.00 for a new contract total not to exceed \$6,421,960.00 and a new Substantial/Final Completion date of April 30, 2011, for project No. BE-51-002A, Ozone System Equipment Procurement (Div A) Southport and Belmont Advanced Wastewater Treatment Facilities. This change order consist of the additional startup and testing. Upon a motion by Mr. Rosebrough, seconded by Ms. Stockamp, the Board voted 5-0 to approve Change Order No. 2 for the Ozone System Equipment Procurement (Div A) Southport and Belmont Advanced Wastewater Treatment Facilities Project.

- b. RS-10-050, C/O No. 2; Resurfacing with Related Items in Pike and Wayne Townships
\$2,494.03 - Calumet Civil Contractors

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 2 for Calumet Civil Contractors in the increased amount of \$2,494.03 for a new contract total not to exceed \$1,003,674.71 and no increase of calendar days for Project No. RS-10-050, Resurfacing with Related Items in Pike and Wayne Townships. A tree located in the curb line had to be removed on Somerset Avenue, as well as a structure that was conflicting with a new ADA ramp on Holmes Avenue. In addition, an existing curb on Holmes Avenue was retrofitted so that the new construction would not damage a very old

large oak tree. Upon a motion by Ms. Stockamp, seconded by Mr. Rosebrough, the Board voted 5-0 to approve Change Order No. 2 for the Resurfacing with Related Items in Pike and Wayne Townships Project.

- c. RS-10-052, C/O No. 3; Resurfacing with Related Items in Center and Washington Townships
\$43,577.71 – Grady Brothers, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 3 for Grady Brothers, Inc., in the increased amount of \$43,577.71 for a new contract total not to exceed \$2,093,404.30 and no increase of calendar days for Project No. RS-10-052, Resurfacing with Related Items in Center and Washington Townships. This change order is for crosswalk striping in specific areas requested by Butler University, as well as Immaculate Heart of Mary and Center for inquiry for added safety of students as they walk to school. Two new ADA ramp will be added at Butler University on Sunset Avenue. Mr. Hughes asked if striping is part of a contract with a resurfacing company, or was it a separate contract. Mr. Smith replied it is a subcontract with a prime contractor. Upon a motion by Mr. Hughes, seconded by Ms. Stockamp, the Board voted 5-0 to approve Change Order No. 3 for the Resurfacing with Related Items in Center and Washington Townships.

ITEM # 6 - FINAL CHANGE ORDERS AND ACCEPTANCES

- a. CW-10-002; C/O No. 3/FINAL; Indy Access Curbs, Sidewalks and Ramps with Related Items in Perry and Warren Townships
\$5,101.12 – CC & T Construction

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 3/FINAL for CC & T Construction in the increased amount of \$5,101.12 for a final contract total not to exceed \$375,857.64 and no increase of calendar days for Project No. CW-10-002, Indy Access Curbs, Sidewalks and Ramps with Related Items in Perry and Warren Townships, furthermore to accept this project as final. This final change order is necessary in order to replace sections of existing sidewalk and curb to accommodate new ramp grades and to remove obstacles, improve drainage, reset inlets, mitigate erosion, relocate driveways, and stabilize slopes to construct the work according to federal design requirement. Upon a motion by Mr. Parrin, seconded by Ms. Stockamp, the Board voted 5-0 to approve Final Change Order No. 3 for the Indy Access Curbs, Sidewalks and Ramps with Related Items in Perry and Warren Townships Project.

- b. CW-10-003; C/O No. 3/FINAL; Indy Access Curbs, Sidewalks and Ramps with Related Items in Center and Washington Townships
\$2,200.00 – Artistic Construction Company, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 3/FINAL for Artistic Construction Company, Inc., in the increased amount of \$2,200.00 for a final contract total not to exceed \$260,972.00 and an increase of 14 calendar days for Project No. CW-10-003, Indy Access Curbs, Sidewalks and Ramps with Related Items in Center and Washington Townships, furthermore to accept this project as final. This final change order is necessary for cleaning of dirt and debris from existing sidewalk before capping, and replacement of a driveway approach with topsoil. Upon a motion by Mr. Rosebrough, seconded by Ms. Stockamp, the Board voted 5-0 to approve Final Change Order No. 3 for the Indy Access Curbs, Sidewalks and Ramps with Related Items in Center and Washington Townships Project.

- c. LS-01-005; C/O No. 1; FINAL; Lift Station LS-201 Force Main Replacement
\$2,459.45 – Veolia Water Indianapolis, LLC

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 1/FINAL for Veolia Water Indianapolis in the increased amount of \$2,459.45 for a final contract total not to exceed \$361,044.45 and an increase of 72 calendar days for Project No. LS-01-005, Lift Station LS 201 Force Main Replacement, and further to accept this project as final. The required rebuilding of two lift station pumps was more extensive than specified by the design engineer generating added cost for materials parts, labor, shipping, and other working related items. Upon a motion by Mr. Parrin, seconded by Ms. Stockamp, the Board voted 5-0 to approve Final Change Order No. 1 for the Lift Station LS-201 Force Main Replacement Project.

- d. LS-08-005 & LS-15-002; C/O No. 1/FINAL; Lift Station LS-110 & 113 Force Main Replacement
\$9,503.00 – CSU, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Change Order No. 1/FINAL for CSU, Inc., in the increased amount of \$9,503.00 for a final contract total not to exceed \$254,821.00 and an increase of 120 calendar days for Project No. LS-08-005 & LS-15-002, Lift Station LS-110 & 113 Force Main Replacement, and furthermore to accept this project as final. The required rebuilding of four lift station pumps was more extensive than specified by the design engineer generating added cost for materials, labor, shipping, and other working related items. Upon a motion by Mr. Hughes, seconded by Ms. Stockamp, the Board voted 5-0 to approve Final Change Order No. 1 for the Lift Station LS-110 & 113 Force Main Replacement.

Mr. Rosebrough left at 2:34.

ITEM # 7 – PROFESSIONAL SERVICE AGREEMENTS

- a. CS-25-031B, Fall Creek Parkway Siphon and Lift Station Project
\$103,157.39 – United Consulting

Staff recommended that the Board of Public Works approve and authorize the Director to execute the Construction Inspection Services Agreement with United Consulting Engineers for Project No. CS-25-031B, Fall Creek Parkway Siphon and Lift Station project in the amount not to exceed \$103,157.39. The engineer estimate for construction cost is \$1,112,585.36. This project is for the construction of a small lift station and siphon near 300 W. Fall Creek Boulevard. A small siphon will be constructed under Fall Creek, and it will replace a double barrel sewer, which has become exposed and is in deteriorating condition. Upon a motion by Ms. Stockamp, seconded by Mr. Hughes, the Board voted 4-0 to approve the Fall Creek Parkway Siphon and Lift Station Project Agreement.

- b. SY-00-095G, Stream Gaging and Flood Warning Agreement – FY 2011
\$117,180.00 – United States Geological Survey

Staff recommended that the Board of Public Works approve and authorize the Director to execute the Professional Service Agreement between United States Geological Survey and the City of Indianapolis for Project No. SY-00-095G, USGS Stream Gaging and Flood Warning Agreement – FY 2011, this agreement will cost \$117,180.00 and will be matched by the USGS in the amount of \$49,470.00 for the period from October 1, 2010 to September 30, 2011. This agreement will allow the USGS to continue the operation of two USGS lake gages and fourteen USGS stream gaging stations which are co-funded by the Department

of Water Works, Indianapolis Power & Light Company, and the USGS. Mr. Parrin asked if this was gaging to monitor flooding. Mr. Nielsen replied yes, stream conditions, flooding, and to be used for the CSO, Stormwater, NPDES and to watch for floods headed into our direction. Upon a motion by Ms. Stockamp, seconded by Mr. Parrin, the Board voted 4-0 to approve the Stream Gaging and Flood Warning Agreement – FY 2011.

ITEM # 8 – PROFESSIONAL SERVICE AMENDMENTS

- a. CS-32-005; Merrill Street Combined Sewer Rehabilitation, Amendment No. 1
\$122,657.00 – ms consultants, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Amendment No. 1 to the Professional Service Agreement dated March 11, 2009, with ms consultants, Inc., for CS-32-005, Merrill Street Combined Sewer Rehabilitation in the increased amount of \$122,657.00 for a total amount not to exceed \$267,475.74. This amendment is for additional inspection services required to properly inspect the contractor (Michels) who has far exceeded the substantial and final completion dates. Upon a motion by Ms. Stockamp, seconded by Mr. Hughes, the Board voted 4-0 to approve Amendment No. 1 to the Merrill Street Combined Sewer Rehabilitation Agreement.

- b. WT-01-074A; Electrical Upgrades for the Belmont and Southport Advanced Wastewater Treatment Facilities, Amendment No. 2
\$114,902.00 – Applied Engineering Services, Inc.

Staff recommended that the Board of Public Works approve and authorize the Director to execute Amendment No. 2 to the Professional Service Agreement for Upgrades for the Belmont and Southport Advanced Wastewater Treatment Facilities with Applied Engineering Services, Inc., in the increased amount of \$114,902.00 and a new contract not to exceed \$1,650,875.00 with contract duration ending May 29, 2013. This amendment provides an engineering study to analyze options for electrical system expansion; provide design services for selected options of the study for electrical system expansion; provide bid and construction support services for the design project. Mr. Parrin asked if this project would be financed through the funds that staff gets for the Consent Decree program. Mr. Nielsen replied no, that this will be financed through user fees. Upon a motion by Mr. Parrin, seconded by Ms. Stockamp, the Board voted 4-0 to approve Amendment No. 2 to the Electrical Upgrades for the Belmont and Southport Advanced Wastewater Treatment Facilities Agreement.

ITEM # 9 – OTHER AMENDMENT

- Processing of Recyclable Materials, Amendment No. 2
\$162,000.00 – Republic Services of Indiana, LLC

Staff recommended that the Board of Public Works approve and authorize the Director to approve an extension to the Agreement with Republic Services of Indiana, LLC for the service of processing of recyclables from the Indianapolis Recycles! program, for one year, to expire December 31, 2011. The City of Indianapolis generates over 2, 200 tons of recyclable materials annually through the Indianapolis Recycles! program. The city does not have the capacity to process or market the materials collected. Republic Services of Indiana, LLC previously submitted a proposal to the City to process the materials collected in this program and market them for sale, giving the city the proceeds. Mr. Hughes asked if Republic is the only company in Indianapolis that does recycling now for the city. Mr. Brock replied yes. Director Sherman acknowledged the last time that Mr. Hughes was here, he mentioned something about recycling, and confirmed that he would have something for him at the next meeting. Mr. Hughes asked if there was a dollar amount

associated with this project. Mr. Brock replied yes, that it is budgeted at about \$162,000.00; however, it is based on the market price. Upon a motion by Mr. Hughes, seconded by Ms. Stockamp, the Board voted 4-0 to approve Amendment No. 2 to the Processing of Recyclable Materials Agreement.

Item 10 that was listed on the agenda was diverted to the last item on the agenda.

ITEM # 10 – BID AWARD

SS-06-006A; Castleton Relief Sewer Project Phase I
\$5,988,200.00 – Bradshaw Construction Corporation

Staff recommended that the Board of Public Works find that the bid of Michels Corporation (Michels) is non-responsive and that Michels is a non-responsible bidder, and further to award Project No. SS-06-006A, Castleton Relief Sewer Project Phase I to Bradshaw Construction Corporation in the not to exceed amount of \$5,988,200.00 on the basis that they are the lowest responsive and responsible bidder. The engineer's estimate for construction of the base bid of the project is \$7,670,000.00 and the percentage between the lowest responsive and responsible bid and the engineer's estimate is 22%. This project consists of the construction of 2,700 linear feet of 42-inch sanitary sewer using Trenchless Sewer Installation (micro tunneling) methods and jacking and receiving pits, commencing at the intersection of 71st Street and Crittenden Avenue and terminating at Keystone Avenue.

Jeff Sirmin, Office of Corporation Counsel stated that there was one additional item that he wanted to bring to the Board's attention, which is dealing with bidders responsibility. He stated in respect to the statutes, it define a responsive bidder as one that is capable of performing the contract requirement fully and who has the integrity and liability that will ensure good faith. In considering bidders responsibility, case law has included such items as finance responsibility, ability in capacity capitol, ability of character representation, competencies and efficient, energy and experience and many more. He replied that one additional concern that staff had with responsibility was that a MBE which had been recommended in an amount nearly \$1.3 million in total contract; was a listed subcontractor who under a current project, Michels had asked to be relieved of during work on the project because they were not doing sufficient work. He stated that it was granted by the office of DEO; yet subsequent to this, staff found this subcontractor listed again on this bid. Moreover, staff believes it's an indication that staff is not dealing with a responsible bidder who has proven to be deficient in past work. Ms. Stockamp asked Mr. Sirmin if he concurred with the recommendation. Mr. Sirmin replied yes, that he reviewed it with staff and recommended that Michels be found non-responsible.

Patrick Michels, President of Michels Corporation stated that there were issues on the Merrill Street project; which does not reflect well on Michels; yet, Michels is internally looking at those issue of their business. In addition, Michels is an international utility, engineering, design and construction contractor based in Brownsville, Wisconsin; with more than 4000 employees throughout North America. With respect to questions regarding responsiveness, Mr. Post will address those questions.

Vice President, Ray Post stated that as far as being responsive, it was addressed in the letter; however, would comment briefly. He stated that city staff made a recommendation on items city staff believed should have been subcontracted. And as Mr. Michels explained, Michels Corporation is a multi-capacity contractor, with the ability to perform a tremendous amount of work in-house. He stated with the time restrictions on the Consent Decree project, Michels felt the work could be performed quicker and faster by performing a lot of in- house subcontracting. However, as recommended by the minority staff, Michels will continue seeking local minority participation.

In addition, Mr. Post acknowledged the pipe incident. He stated that post Bid No. 5 is for a specialist pipe that was manufactured only for the use on this project, and that this is not a pipe that you purchase off the shelf. He replied that Michels considered and believed the manufacturer was the pipe manufacturer not a supplier; and that the confusion was about whether or not the documents were clear or unclear about what should or should not be submitted. Mr. Post mentioned that overall Michels met the requirements of the contracts and the submittals, and do not believe that Michels is non-responsive. He further stated that Michels is proud to be a union contractor, and since our inception, Michels have consistently enjoyed positive relations with unions and locals from coast to coast.

Mr. Michels stated as far as responsibility, he graciously disagreed with the city's position with Michels not being responsible. He stated that he could bring volumes of letters and accolades that Michels has throughout all their operations. He expressed that Michels is looking to double team this project with no additional cost to the city; and would give his personal guarantee that he would watch over this project if awarded. Mr. Parrin asked what is Michels on time completion performance. Mr. Michel's replied almost about 100 percent.

Director Sherman asked Mr. Michels how long he had been in business. Mr. Michels replied that it is a family owned business of more than 50-years. Director Sherman stated that he had received multiple calls on this project, and yes staff, recognizes that there are firms with challenges; however, the city has given many opportunities, and cannot continue taking chances. Besides, he stated with the improvements to the Consent Decree, and the \$350 million worth of work between transportation, roads, grounds and sidewalks next year, and with the Super Bowl coming; the Castleton Relief project is an area that is pretty critical for our economic development. Yet, he replied going forward has been pretty risky for our engineers because of a firm that had a project right in the middle of downtown and could not manage to complete it properly; which is a little bit embarrassing for the both of us. He stated that he wanted Michels to understand that this Board has to take those things into consideration, and regardless of the recommendation from the legal, and whether staff decide to go along with the recommendation does not mean Michels is out entirely, it only means that Michels would have an opportunity in the future.

Mr. Michels stated that he understood how significant this project was and how important it is to get this project done on time; however, Michels has offered to put two machines on this project and get it done in less time of the calendar window at no extra cost to the city. He stated that there were nine bidders and that Michels was the lowest bidder with savings of about \$15 thousand dollars to the city; which needs to be taken into consideration. He mentioned that Michel's is a very large contractor, and stand behind their every word.

Mr. Parrin stated that besides the non-responsive issues his biggest concern is how staff will use this particular situation as being non-responsible, and as Director Sherman mentioned the city cannot afford to take a chance on this one; yet, he is concerned that Mr. Michels know that it takes years to build a business reputation with customers, but it only takes one project to go south to lose that confidence and for that customer to lose faith. He replied as Director Sherman mentioned there is more work coming; and that his suggestion is to complete the Merrill Street project now, on time to the city's satisfaction, then get on with the future with the city.


Jeff Sirmin, Office of Corporation Counsel stated that there was an indication that there was a hiccup with the way things were done by the company. He stated that in the Board material there was evidence of a law suit filed by Elm Grove, that was caused due to delays in a particular project. Secondly, Mr. Sirmin mentioned in the findings of responsibility, it is the ability of a contractor to perform the work to the satisfaction of the owner; and that this is not something that can be cured over night, but in the past, staff has had bidders who were found non-responsive; of which they suggested how do we become a responsible bidder. Staff's advice

is to go out and do other projects well and demonstrate that there has been a change in the road. Upon a motion by Ms. Stockamp, seconded by Mr. Hughes, the Board voted 4-0 to approve the Castleton Relief Sewer Project Phase I Project.

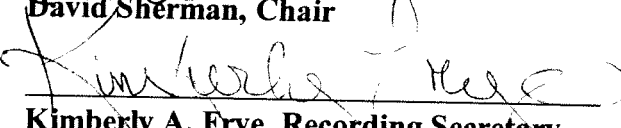
Mr. Nielsen announced that there was a scrivener's error made on the October 13, 2010, Board agenda. He stated that with respect to the Bollinger, Lach & Associates on Project No. SD-20-003, Pendleton Pike and Shadeland Avenue Stormwater Improvement Project was incorrectly identified as Amendment No. 1, and should have been Amendment No. 2 in the amount of \$47,748.94 and a new contract total not to exceed \$159,622.20.

ITEM # 11 – OTHER BUSINESS

There being no further business the meeting of the Board of Public Works was adjourned at 3:12 p.m.



David Sherman, Chair



Kimberly A. Frye, Recording Secretary